

Remarks/Arguments

Rejection of Claims 21-23 under 35 U.S.C. 112

The Examiner rejected Claims 21-23 under 35 U.S.C. 112, second paragraph. Regarding Claims 21 and 22, the Examiner stated that is unclear as to whether the claims are system or method claims. Applicants respectfully traverse the rejection.

Claim 21 recites:

“21. (previously presented) A safety system for a motor vehicle (**100**), where the safety system can receive, transmit and process electronic signals and has a memory device (**136**) in which there is stored at least one control program (**138**) that controls a method according to Claim 1.”

Claim 22 recites:

“22. (previously presented) The safety system according to Claim 21, wherein the safety system (**134**) comprises an electronic engine control unit (**132**) and the electronic engine control unit (**132**) can receive, transmit and process electronic signals and has the memory device (**136**) in which there is stored at least the control program (**138**) that controls said method.”

The Examiner stated: “the claim cannot have both system and method together in one claim. This is incorrect. The combination of apparatus and method limitations in a claim is acceptable, for example, as stated in Section 2173.05(f) of the MPEP:

“2173.05(f) Reference to Limitations in Another Claim

A claim which makes reference to a preceding claim to define a limitation is an acceptable claim construction which should not necessarily be rejected as improper or confusing under 35 U.S.C. 112, second paragraph. For example, claims which read: "The product produced by the method of claim 1." or "A method of producing ethanol comprising contacting amylose with the culture of claim 1 under the following conditions" are not indefinite under 35 U.S.C. 112, second paragraph, merely because of the reference to another claim. See also *Ex parte Porter*, 25 USPQ2d 1144 (Bd. Pat. App. & Inter. 1992) where reference to "the nozzle of claim 7" in a method claim was held to comply with 35 U.S.C. 112, second paragraph. However, where the

format of making reference to limitations recited in another claim results in confusion, then a rejection would be proper under 35 U.S.C. 112, second paragraph.”

The above excerpt from the MPEP clearly allows system and method limitations in a single claim, contrary to the Examiner’s assertion.

There is no confusion in the recitation of the limitations for Claims 21 and 22; therefore, the claims are in accordance with the above section of the MPEP. Specifically, Claim 21 recites an apparatus operated according to the method of Claim 1. Claim 22 adds further structure to the apparatus recited in Claim 21.

Applicants courteously request that the rejection be removed.

Claim Allowance

Applicants gratefully acknowledge the allowance of Claims 1-5.

Conclusion

Applicant respectfully submits that all pending claims are now in condition for allowance, which action is courteously requested.

Respectfully submitted,

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